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Attorneys for Defendants InComm Financial Services, Inc. and Pathward, N.A.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

KEVIN SMITH

Plaintiff,

vs.

INCOMM FINANCIAL SERVICES, INC. AND
PATHWARD, N.A.

Defendants.

Case No. 5:23-CV-4687-BF

**STIPULATED REQUEST FOR
EXTENSION TO FILE MOTION TO
DISMISS AMENDED COMPLAINT;
~~PROPOSED~~ ORDER**

Judge: Hon. Beth Labson Freeman

Date: N/A

Time: N/A

Place: Courtroom 3

**STIP. REQUEST FOR ORDER EXTENDING DEADLINES FOR MOTION TO DISMISS
AMENDED COMPLAINT (Case No. 5:23-CV-4687-BF)**

Pursuant to Local Rules 6-1(b), 6-2, and 7-12 of the Local Rules of the United States District Court for the Northern District of California, Plaintiff Kevin Smith (“Plaintiff”) and Defendants InComm Financial Services, Inc. and Pathward, N.A. (“Defendants”), through their counsel, jointly request that the Court grant Defendants an extension to move or respond to the First Amended Complaint *instantly*.

WHEREAS, Plaintiff filed his Complaint on September 12, 2023 (Dkt. No. 1);

WHEREAS, Plaintiff and Defendants entered a stipulation on November 16, 2023 to extend the time for Defendants to respond to the Complaint to December 15, 2023 (Dkt. No. 9);

WHEREAS, Defendants filed their motion to dismiss on December 15, 2023 (Dkt. No. 22);

WHEREAS, the parties conferred and negotiated a schedule to file their respective briefs in opposition (March 7, 2024) and reply (March 28, 2024), in advance of the April 18, 2024 hearing (Dkt. No. 24);

WHEREAS, Plaintiff applied for leave to file an Amended Complaint, with Defendants’ consent (Dkt. No. 29), which the Court granted on March 7, 2024 (Dkt. No. 31);

WHEREAS, Plaintiff filed an Amended Complaint on March 21, 2024 (Dkt. No. 40);

WHEREAS, Defendant’s deadline to move or respond to the Amended Complaint is currently May 20, 2024 (Dkt. No. 31);

WHEREAS, the Case Management Conference is currently set for July 11, 2024 (Dkt. No. 39);

WHEREAS, Plaintiff filed a Declaration of Venue, as required by Cal. Civ. Code § 1780(d) to state a claim under the Consumer Legal Remedies Act, on May 15, 2024 (Dkt. No. 41);

WHEREAS, due to the newly filed declaration, competing business commitments, and the upcoming Memorial Day holiday, an extension of the briefing schedule will enable more effective presentation of the issues to the Court;

STIP. REQUEST FOR ORDER EXTENDING DEADLINES FOR MOTION TO DISMISS
AMENDED COMPLAINT (Case No. 5:23-CV-4687-BF)

1 NOW, THEREFORE, IT IS HEREBY STIPULATED AND REQUESTED by and
2 between the parties, through their respective attorneys of record, that the Court extend
3 Defendants' deadline to move or respond to the Amended Complaint to June 7, 2024.

4 DATED: May 16, 2024

/s/ Henry J. Ricardo

5 **PATTERSON BELKNAP WEBB & TYLER LLP**

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23 *Attorneys for Defendants*

24 DATED: May 16, 2024

/s/ John Blythin

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Attorneys for Plaintiff


SIGNATURE ATTESTATION

I hereby attest that I have obtained the concurrence of John D. Blythin, counsel for Plaintiff, for the filing of this Stipulated Request.

/s/
Henry J. Ricardo

~~[PROPOSED]~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED


The Honorable Beth Freeman
United States District Judge

DATED: May 16, 2024